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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/056.366	01/25/2002	Johannes M.M. Verbakel	PHQ 98.017A	8305

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EXAMINER

CHU, KIM KWOK

ART UNIT PAPER NUMBER

2653

DATE MAILED: 04/06/2004

12

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action

Application No.

10/056,366

Applicant(s)

VERBAKEL ET AL.

Examiner

Kim-Kwok CHU

Art Unit

2653

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 20 January 2004 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) The period for reply expires 2 months from the mailing date of the ~~final rejection~~ *notice of Appeal*
- b) The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

- 1. A Notice of Appeal was filed on 08 March 2004. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
- 2. The proposed amendment(s) will not be entered because:
 - (a) they raise new issues that would require further consideration and/or search (see NOTE below);
 - (b) they raise the issue of new matter (see Note below);
 - (c) they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 - (d) they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____.

- 3. Applicant's reply has overcome the following rejection(s): _____.
- 4. Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
- 5. The a) affidavit, b) exhibit, or c) request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
- 6. The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
- 7. For purposes of Appeal, the proposed amendment(s) a) will not be entered or b) will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: _____.

Claim(s) objected to: 20,21,24,26,28,30,32,34 and 36-42.

Claim(s) rejected: 10-19,22,23,25,27,29,31,33 and 35.

Claim(s) withdrawn from consideration: _____.

- 8. The drawing correction filed on _____ is a) approved or b) disapproved by the Examiner.
- 9. Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____.
- 10. Other: _____.

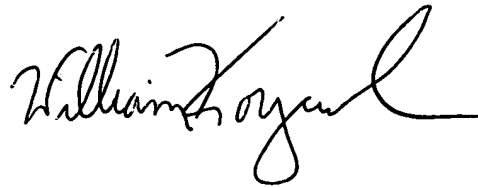
Continuation of 5. does NOT place the application in condition for allowance because:

1. Applicant states that "the Examiner has cited no prior art, whatsoever, showing that the differences between the rejected claims of the present invention are obvious in view of the claims to U.S. Patent No. 6,370,090 (page 15 of the Remarks, lines 22-25). Accordingly, the rejected claims are obvious variations of the '090 patent's claims, a prior art is not required in the obviousness-type double patenting because the conflicting claims are not patentably distinct from each other.
2. Applicant states that "there is no disclosure or suggestion, within Yonemitsu et al. for placing sub-TOC data stored in the same track" (page 16 of the Remarks, last 6-4 lines). In addition, Applicant further states that "there is no disclosure, or suggestion in either Yonemitsu et al. or Nishida et al. for placing a redundant sub-TOC in a single track as recited by rejected Claim 10" (page 17 of the Remarks, lines 11-14). Accordingly, the primary reference of Nishida teaches that a plurality of sub-TOCs are stored in the same track. Yonemitsu is a secondary reference which discloses Applicant's claimed feature "any correct copy of the sub-TOCs". With the same motivation of "allowing retrieving the configuration of the same information item in the track area" as in claim 10, Nishida in view of Yonemitsu teaches that a copy of one of the sub-TOCs is stored in the same track as in claim 10. Likewise, Nishida in view of Yonemitsu teaches that a redundant sub-TOC is placed in a single track as in claim 10; and
3. Applicant states that Nishida et al. does not have tracks (page 19 of the Remarks, lines 1 and 2). Accordingly, Nishida's data are stored in tracks so that addresses can be generated.

bc 3/28/04

Examiner: Kim CHU

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